

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0261 MVE

Motor Vehicle Excise Tax

For Tax Period: 09/30/93 Through 09/30/98

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-13-2-78, IC 9-18-2-1

Taxpayer protests the imposition of the Motor Vehicle Excise Tax on his 1993 Oldsmobile.

STATEMENT OF FACTS

Taxpayer was present in Indiana but filed Non-resident Indiana Income Tax returns throughout the assessment period. Taxpayer was assessed the Motor Vehicle Excise Tax on his 1993 Oldsmobile. Taxpayer protests the assessment of the Motor Vehicle Excise Tax. Additional facts will be provided below, as necessary.

I. Motor Vehicle Excise Tax – Imposition

DISCUSSION

Pursuant to Indiana Code Section 9-18-2-1, within sixty days of becoming an Indiana resident a person must register all motor vehicles owned by that person which will be operated in Indiana.

Indiana resident is defined in Indiana Code Section 9-13-2-78,
“Indiana resident” refers to a person who is one (1) of the following:

- (1) A person who has been living in Indiana for at least one hundred eighty-three (183) days during a calendar year and who has a legal residence in another state. However, the term does not include a person who has been living in Indiana for any of the following purposes:
 - (A) Attending an institution of higher education.
 - (B) *Serving on active duty in the armed forces of the United States. . .*

Emphasis added.

Taxpayer protests the imposition of the Motor Vehicle Excise Tax and claims he was not required to license and register his 1993 Oldsmobile in Indiana as he was serving and continues to serve on active duty in the armed forces. Taxpayer was originally from Ohio and claims to have maintained Ohio as his place of legal residence. In support of taxpayer's protest he has submitted copies of his Active Duty Identification Card and his State of Legal Residence form. Taxpayer's identification card, which expires March 12, 2000, states he is active in the U.S. Army. Taxpayer's State of Legal Residence Certificate lists Ohio as his legal residence. Taxpayer also continues to pay individual income taxes in Ohio for his military pay (he pays Indiana income tax for any other income earned in Indiana).

FINDING

Taxpayer's protest is sustained. Taxpayer has proven to the Department's satisfaction that he is serving on active duty in the armed forces and is, therefore, not required to license and register his vehicle in Indiana.